

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



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AZ CORP COMMISSION
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64067

DATE: September 18, 2001

DOCKET NO: T-03318A-00-0832

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Stephen Gibelli.
The recommendation has been filed in the form of an Order on:

1-800-RECONEX, INC.
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

SEPTEMBER 27, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 2 AND 3, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

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[Signature]
BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF 1-
800-RECONEX, INC. FOR A CERTIFICATE OF
7 CONVENIENCE AND NECESSITY TO PROVIDE
8 COMPETITIVE RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, EXCEPT
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03318A-00-0832

DECISION NO. _____

ORDER

9 Open Meeting
10 October 2 and 3, 2001
Phoenix, Arizona

11 **BY THE COMMISSION:**

12 Having considered the entire record herein and being fully advised in the premises, the
13 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

14 **FINDINGS OF FACT**

15 1. On October 19, 2000, 1-800-RECONEX, Inc. ("Applicant") filed with the
16 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
17 competitive resold interexchange telecommunications services within the State of Arizona.

18 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
19 telecommunications providers ("resellers") were public service corporations subject to the
20 jurisdiction of the Commission.

21 3. Applicant is an Oregon corporation, authorized to do business in Arizona since 1998.

22 4. Applicant is a switchless reseller, which purchases telecommunications services from
23 a variety of carriers.

24 5. On June 19, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff
25 Report in this matter. In its Staff Report, Staff stated that 1-800-RECONEX, Inc. provided financial
26 statements for the eight months ending August 30, 2001. These financial statements list assets of
27 \$2.6 million, negative equity of \$3.3 million, and a net loss of \$382,430. Based on the foregoing,
28

1 Staff believes that 1-800-RECONEX, Inc. lacks sufficient financial resources to be allowed to charge
2 customers any prepayments, advances, or deposits without posting a performance bond. Staff
3 recommended approval of the application subject to the following conditions, that:

4 (a) The Applicant shall comply with all Commission rules, orders, and other
5 requirements relevant to the provision of intrastate telecommunications service;

6 (b) The Applicant shall maintain its accounts and records as required by the
7 Commission;

8 (c) The Applicant shall file with the Commission all financial and other reports
9 that the Commission may require, and in a form and at such times as the Commission
may designate;

10 (d) The Applicant shall maintain on file with the Commission all current tariffs
11 and rates, and any service standards that the Commission may require;

12 (e) The Applicant shall comply with the Commission's rules and modify its tariffs
13 to conform to these rules if it is determined that there is a conflict between the
Applicant's tariffs and the Commission's rules;

14 (f) The Applicant shall cooperate with Commission investigations of customers
15 complaints;

16 (g) The Applicant shall participate in and contribute to a universal service fund, as
required by the Commission;

17 (h) The Applicant shall notify the Commission immediately upon changes to the
18 Applicant's address or telephone number;

19 (i) The Applicant's intrastate interexchange service offerings should be classified
20 as competitive pursuant to A.A.C. R14-2-1108;

21 (j) The rates proposed by the Applicant in its most recently filed tariffs should be
22 approved on an interim basis. The maximum rates for these services should be the
23 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates
for the Applicant's competitive services should be the Applicant's total service long
run incremental costs of providing those services;

24 (k) In the event that the Applicant states only one rate in its proposed tariff for a
25 competitive service, the rate stated should be the effective (actual) price to be charged
26 for the service as well as the service's maximum rate, and;

27 (l) The Applicant shall certify that all notification requirements have been
28 completed.

1 6. Staff also recommended approval of 1-800-RECONEX, Inc.'s application subject to
2 the following conditions:

- 3 (a) That the Applicant file conforming tariffs within 30 days of an Order in this
4 matter, and in accordance with the Decision;
- 5 (b) That the Applicant file in this Docket, within 18 months of the date it first
6 provides service following certification, sufficient information for Staff
7 analysis and recommendation for a fair value finding, as well as for an analysis
8 and recommendation for permanent tariff approval. This information must
9 include, at a minimum, the following:
- 10 1. A dollar amount representing the total revenue for the first twelve months
11 of telecommunications service provided to Arizona customers by 1-800-
12 RECONEX, Inc. following certification, adjusted to reflect the maximum
13 rates that the Applicant has requested in its tariff. This adjusted total
14 revenue figure could be calculated as the number of units sold for all
15 services offered times the maximum charge per unit.
- 16 2. The total actual operating expenses for the first twelve months of
17 telecommunications service provided to Arizona customers by the
18 Applicant following certification.
- 19 3. The value of all assets, listed by major category, including a description of
20 the assets, used for the first twelve months of telecommunications services
21 provided to Arizona customers by the Applicant following certification.
22 Assets are not limited to plant and equipment. Items such as office
23 equipment and office supplies should be included in this list.
- 24 (c) 1-800-RECONEX, Inc.'s failure to meet the condition to timely file sufficient
25 information for a fair value finding and analysis and recommendation of
26 permanent tariffs shall result in the expiration of the Certificate of
27 Convenience and Necessity and of the tariffs.

28 7. Staff also recommends that in order to protect the Applicant's customers:

- 29 (a) 1-800-RECONEX, Inc. shall procure a performance bond equal to \$10,000.
30 The minimum bond amount of \$10,000 should be increased if at any time it
31 would be insufficient to cover prepayments or deposits collected from the
32 Applicant's customers;
- 33 (b) proof of the performance bond be docketed within 90 days of the effective date
34 of a decision in this matter or 30 days prior to the provision of service,
35 whichever comes first; and,
- 36 (c) when appropriate, based on the Applicant's financial status, Staff recommends
37 that 1-800-RECONEX, Inc. be allowed to file a request for cancellation of its

1 established performance bond. Such request should be accompanied by
2 information demonstrating the Applicant's financial viability. Upon receipt of
3 such filing and after Staff review, Staff will forward its recommendation to the
4 Commission for Decision that the requested cancellation of the bond is in the
5 public interest.

6 8. The Staff Report also stated that Applicant has no market power and the
7 reasonableness of its rates would be evaluated in a market with numerous competitors.

8 9. On June 22, 2001, a Procedural Order was issued requiring any exceptions to the Staff
9 Report or a request that a hearing be set, to be filed by August 29, 2001. No exceptions were filed to
10 the Staff Report, nor did any party request that a hearing be set.

11 10. On September 17, 2001, 1-800-RECONEX, Inc. filed Affidavits of Publication
12 indicating compliance with the Commission's notice requirements.

13 11. On August 29, 2000, the Arizona Court issued its Opinion in US WEST
14 Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that "the
15 Arizona Constitution requires the Commission to determine fair value rate bases for all public service
16 corporations in Arizona prior to setting their rates and charges."

17 12. On October 26, 2000, the Commission filed a Petition for Review to the Supreme
18 Court.

19 13. On February 13, 2001, the Commission's Petition was granted.

20 CONCLUSIONS OF LAW

21 1. Applicant is a public service corporation within the meaning of Article XV of the
22 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

23 2. The Commission has jurisdiction over Applicant and the subject matter of the
24 application.

25 3. Notice of the application was given in accordance with the law.

26 4. Applicant's provision of resold interexchange telecommunications services is in the
27 public interest.

28 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
resold interexchange telecommunications services in Arizona.

6. Staff's recommendations in Findings of Fact No. 5, 6, and 7 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of 1-800-RECONEX, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunications services, except local exchange services, is hereby granted.

IT IS FURTHER ORDERED that 1-800-RECONEX, Inc. shall comply with Staff's recommendations as set forth in Findings of Fact Nos. 5, 6, and 7.

IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, 1-800-RECONEX, Inc. shall notify the Compliance Section of the Arizona Corporation Commission of the date that it will begin or has begun providing service to Arizona customers.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
SG:mlj

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SERVICE LIST FOR:

1-800-RECONEX, INC.

DOCKET NO.:

T-03318A-00-0832

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